

**Performance Audit
Insurance for Use of Parks and Recreation
Facilities and Property**

December 2003

**City Auditor's Office
City of Kansas City, Missouri**

December 16, 2003

Honorable Mayor and Members of the City Council:

This performance audit of the Parks and Recreation Department's administration of liability insurance requirements was initiated by the City Auditor as the result of a complaint alleging that the department selectively enforced liability insurance requirements. The audit report focuses on the identification of risks associated with the use of Parks and Recreation Department properties and the documentation of risk elements associated with events.

Community centers staff, marketing staff, and the Regional Managers evaluate risk factors and determine whether or not liability insurance will be required for events held in Kansas City, Missouri, parks and park facilities. Our audit found that, in many instances, decision makers did not obtain or maintain written documentation sufficient to determine whether or not insurance requirements were consistently applied to similarly situated individuals or groups.

Parks and Recreation staff recognizes the need for flexibility in determining whether liability insurance should be required or waived. The decision process requires decision makers to balance the city's risks against the public's access to park property. Current department guidelines should be expanded to include a more comprehensive list of risks considered in the decision-making process and outline more complete documentation and review requirements. These changes would increase the transparency of the decision-making process and permit management review of the decision.

A draft of this report was sent to the Director of Parks and Recreation on November 17, 2003. A written response is included in Appendix A. We appreciate the courtesy and cooperation extended to us by staff from Parks and Recreation, Risk Management, and Law. The audit team for this project was Sue Polys and Nancy Hunt.

Mark Funkhouser
City Auditor

Insurance for Use of Parks and Recreation Facilities and Property

Table of Contents

Introduction	1
Objectives	1
Scope and Methodology	1
Background	2
Parks Needs Better Guidelines To Decide When To Require Insurance	2
Parks Makes Decisions With Limited Guidelines	3
Improving Guidelines Could Help Staff Make Consistent, Fair Decisions	4
Recommendation	6
Appendix A	7
Director of Parks and Recreation's Response	7

List of Exhibits

Exhibit 1. Select Liability Insurance and Waivers Reviewed	5
--	---

Introduction

Objectives

This audit of the Parks and Recreation Department's administration of liability insurance requirements was conducted pursuant to Article II, Section 13 of the Charter of Kansas City, Missouri, which establishes the Office of the City Auditor and outlines the City Auditor's primary duties.

A performance audit is an objective, systematic examination of evidence to independently assess the performance of a government organization, program, activity, or function in order to provide information to improve public accountability and facilitate decision-making.¹ This audit was designed to answer the following question:

- Does the Parks and Recreation Department treat individuals and groups who use Parks facilities and properties fairly regarding insurance requirements?

Scope and Methodology

We reviewed the Parks and Recreation Department's administration of liability insurance requirements for individuals and groups using park property for a fee. We conducted this audit in accordance with generally accepted government auditing standards. Our audit methods included:

- Reviewing and analyzing a judgmental sample of special event permits, facility permits, and concession and use agreements to determine which event organizers were required to obtain liability insurance.
- Interviewing staff from Parks and Recreation, Risk Management, and Law to identify risk factors that should be considered when assessing the need for liability insurance.

No information was omitted from this report because it was deemed privileged or confidential.

¹ Comptroller General of the United States, *Government Auditing Standards* (Washington, DC: U.S. Government Printing Office, 1994), p. 14.

Background

The Parks and Recreation Department has over 200 parks, 10 community centers, and other facilities which individuals and groups can rent or use for a fee. Individuals and groups use parks and other park facilities for a variety of events. Several decision-making groups are involved in fee for use of the department's facilities and properties. Community center staff schedule rental of their facilities including birthday parties, wedding receptions, business meetings, and basketball games. Marketing staff issue special event permits for outdoor events including fundraisers, television commercial shoots, church gatherings, and weddings. Regional managers do concession and use agreements with sport leagues and other organizations with long-term relationships with the department. The Director's office maintains the Starlight Theatre Association and Friends of the Zoo contracts. The Board of Parks and Recreation Commissioners approves activities that involve groups collecting donations or levying a fee or charge on Parks property.

Sometimes injury or damage occurs in the course of events resulting in claims made against the city. Event organizers' liability insurance can help protect the city. Parks and Recreation staff decides whether event organizers should provide liability insurance by considering the events' risk factors. Staff can also decide to waive insurance. Although some discretion is appropriate in order to avoid undue barriers for the use of community assets, the great deal of discretion given to managers increases the chances that individuals and groups could be treated unfairly or inconsistently.

Parks Needs Better Guidelines To Decide When To Require Insurance

We cannot tell whether Parks has selectively applied the insurance requirements because liability insurance decisions are not sufficiently documented to permit a thorough evaluation of whether or not individuals and groups are treated fairly. There is a risk of unfair or inconsistent treatment because staff exercise broad discretion in decision making and decisions are not reviewed.

Parks facility rental guidelines do not state all of the risk factors relevant to making decisions about insurance requirements. Some department decision makers do not evaluate potential risk factors and never require insurance. Some do not document important risk factors.

Decision making could be improved by expanding the list of risk factors so that all Parks decision makers would be considering the same types of information. Documenting the risks would allow greater transparency of decisions and supervisory review.

Parks Makes Decisions With Limited Guidelines

The Parks and Recreation Department's current facility rental guidelines do not provide a complete list of risk factors for staff to consider in determining whether or not insurance should be required by an event organizer. The guidelines require staff to consider the need for liability insurance for each event, but only identify three specific risk factors.

"Should a request for use of a facility involve more than 200 participants; requires (sic) the set-up and tear down of large equipment or staging; or have an admission fee associated with the event, or include other unique risk factors then the request for facility use may require insurance. These types of requests for use of a facility should be reviewed with a supervisor prior to approval."

Source: Facility Rental Guidelines, Kansas City Missouri Parks and Recreation Department 2003.

According to staff from Parks and Recreation, Risk Management, and Law, risk considerations include:

- Will alcohol be consumed?
- Will there be carnival rides?
- Will children participate in the event? (Children lack the judgment to recognize risks.)
- To what degree is the facility or property controlled by Parks management? (The more control over a facility or property, the increased likelihood of discovery or remedy of dangerous conditions.)
- What activities will happen at the event? (A sporting event could present more risk than a prayer service.)
- Will fireworks be used?
- How long is the event?
- How many people are expected to attend?
- Are there any security issues with the event?

- Is the facility or property in good repair?
- What is the terrain like at the event site?
- What time of day will the event take place? (Darkness limits visibility.)
- Is there an admission fee?

Staff from Parks and Recreation, Risk Management, and Law agree that the risks need to be considered in their totality. The answer to one risk consideration may negate the concern of another. For example, a large group may be gathering for an event but the event activity is meditation. The risk of the large group size may be mitigated by the sedate activity.

Improving Guidelines Could Help Staff Make Consistent, Fair Decisions

Parks management should develop expanded guidelines to manage decision making. Management should provide staff with a list of questions that are asked of each potential event holder in order to adequately address the risk factors and to help Parks staff make consistent, fair decisions about requiring insurance. Staff should decide based on answers and using the viewpoint of a reasonable person whether to require insurance for park property rental. Staff should maintain this documentation in order to provide transparency of their decision making and management should periodically review a sampling of decisions to ensure consistent application.

Some decisions appear inconsistent. We reviewed a judgmental sample of 284 records of parks facility permits, special event permits, and concession and use agreements for fiscal year 2003 and identified differences among the decision makers. We reviewed records from three community centers, the marketing division, and regional managers. Marlborough and Brush Creek community centers' management did not require insurance of any event organizers, and their management confirmed that they never require insurance. Line Creek Community Center's management reported requiring insurance in some instances, but did not maintain proof of insurance. Regional managers almost always required insurance and maintained proof of liability insurance for their agreements. Only regional managers maintained insurance waiver documentation. (See Exhibit 1.)

Exhibit 1. Select Liability Insurance and Waivers Reviewed

Decision Makers	Records Reviewed	Insurance Documented	Waivers Documented
Marketing	54	14	0
Selected Community Centers	211	0	0
Region Managers	17	16	12 ²
Director's Office	2	2	0
Totals	284	32	12

Source: Parks and Recreation rental records.

Parks doesn't always document risk factors. Many of the event records we reviewed did not include information necessary to understand the event risk. Over half of the records did not indicate the purpose of the rental and about a quarter did not indicate the number of expected attendees.

Some waivers are not documented. Special event permit requirements and conditions include a statement that, "This permit is granted with the understanding that the Event Sponsor and the applicant agree to: ...Maintain general liability insurance of not less than one million dollars combined single limit per occurrence listing the City of Kansas City, MO as an additional insured." Parks staff will orally waive the insurance requirement if an event organizer questions the requirement for insurance and staff determines that the insurance is not necessary. An event organizer who does not question the requirement would assume they needed the insurance even though staff might have waived it if asked.

Parks insurance decisions may be reasonable, but the staff making the decisions might not have been considering the same types of information about risks associated with the activities. Without written documentation it is not possible to understand the factors that were considered when the decision was made or whether decisions were appropriate. Improving the guidelines and documenting decisions would help ensure managers in different locations collect and evaluate the same types of information to help guide their decisions. Improved documentation would allow for transparency of decisions and supervisory review.

² Waivers are included for insurance other than liability.

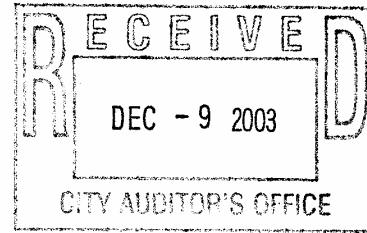
Recommendation

1. The Director of Parks and Recreation should revise current liability insurance guidelines to include a form identifying risk factors that should be gathered from all event organizers. The risk factors should be used to evaluate staff decisions on whether to require or waive liability insurance. The Director should require periodic supervisory review of decisions.

Appendix A

Director of Parks and Recreation's Response

Insurance for Use of Parks and Recreation Facilities and Property

**INTER-DEPARTMENTAL COMMUNICATION**

Date: Dec. 8, 2003
To: Mark Funkhouser, City Auditor
From: Mark L. McHenry, Director, Parks and Recreation Department
Subject: Response to the draft on Insurance for Use of Parks and Recreation Facilities and Property

We agree with you that the variety of events scheduled at Parks and Recreation facilities and parks makes it difficult to develop strict criteria for insurance. As your report acknowledged, we encourage as much use of our Parks and Recreation resources as possible. Insurance requirements for small events, such as a small wedding, would be vastly different than those for a rock concert, and management discretion is required.

We also agree that, for purposes of accountability and transparency of process, our system for requiring or waiving insurance for use of facilities and property could be strengthened. The following recommendation came from your report:

“The Director of Parks and Recreation should revise current liability insurance guidelines to include a form identifying risk factors that should be gathered from all event organizers. The risk factors should be used to evaluate staff decisions on whether to require or waive liability insurance. The Director should require periodic supervisory review of decisions.”

We agree with the recommendation, and staff has been assigned to develop the form with criteria for managers to use as well as a Parks and Recreation Administrative Directive to implement more stringent reporting procedures for insurance and waiver requirements.

Mark L. McHenry, Director